

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4096

United States of America,

Appellee,

v.

Salome Gee Perez,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: October 9, 2006
Filed: October 23, 2006

Before SMITH, MAGILL, and BENTON, Circuit Judges.

PER CURIAM.

Salome Gee Perez appeals the 100-month prison sentence the district court¹ imposed after he pleaded guilty to conspiring to distribute and possess with intent to distribute cocaine base, in violation of 21 U.S.C. § 846. His counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), suggesting that the sentence is unreasonable.

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

We disagree. In sentencing Perez within the undisputed Guidelines range, the district court properly considered the 18 U.S.C. § 3553(a) factors, specifically noting Perez's mental health needs; and nothing in the record rebuts the presumption that the sentence is reasonable. See *United States v. Booker*, 543 U.S. 220, 260-64 (2005) (appellate courts must review sentences for unreasonableness; sentencing courts must take into account Guidelines and other § 3553(a) factors); *United States v. Tobacco*, 428 F.3d 1148, 1151 (8th Cir. 2005) (presumptively reasonable sentence can be unreasonable if district court failed to consider relevant factor that should have received significant weight, gave significant weight to improper or irrelevant factor, or considered only appropriate factors but committed clear error of judgment in weighing them); *United States v. Lincoln*, 413 F.3d 716, 717-18 (8th Cir.) (sentence within applicable Guidelines range is presumptively reasonable, and defendant bears burden to rebut that presumption), *cert. denied*, 126 S. Ct. 840 (2005).

Having reviewed the record under *Penon v. Ohio*, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we affirm the district court's judgment.
